UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/838,494	04/19/2001	Robert B. Havekost	06005/37172	8946

4743 7590 08/01/2005		EXAMINER
MARSHALL, GERSTEIN & BORUN LLP		SWARTHOUT, BRENT
233 S. WACKER DRIVE, SUITE 6300		
SEARS TOWER	ART UNIT	PAPER NUMBER
CHICAGO, IL 60606	2636	

DATE MAILED: 08/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
Office Action Summary	09/838,494	HAVEKOST, ROBERT B.
	Examiner	Art Unit	
	Brent A. Swarthout	2636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _11 July 2005_.

2a)☐ This action is **FINAL.**   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-8,10-26 and 28-38_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _1-8,10-26 and 28-38_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail.Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail.Date. _____.

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

1.   The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2.   Claims 1-6,8,10-16,18-26, 28-33 and 35-38 are rejected under the judicially

created doctrine of obviousness-type double patenting as being unpatentable over

claims 1-62 of U.S. Patent No. 6,774,786 in view of Sandelman et al. and Brown et al.

> Havekost discloses a method of processing an alarm comprising
>
> displaying portions of alarms based on user customizable criterion
>
> (claim 1).

Sandelman discloses a method of processing an alarm within a process

control system comprising receiving a device alarm message from a field

device (2,3,4,5) with a first message (col.7, line 7), appending a second

set of message fields containing second set of information for an

enhanced alarm message (col. 14, lines 37-47), selecting a device alarm

table based on second information and mapping the first message data to

the appropriate alarm table (col.13, lines 34-63), except for specifically

stating that the first message includes a set of message fields.

Brown discloses desirability of using Fieldbus protocol for communicating between remote units 20,28 and controller 110.

It would have been obvious to display alarm based on user customizable criterion as suggested by Havekost and to use a protocol as suggested by Brown in conjunction with an alarm system as disclosed by Sandelman, in order to allow devices made by different manufacturers to communicate over a standard bus and have only the desired alarm displayed based on user preference criteria (col.2, lines 20-24).

Regarding claim 3, Brown teaches use of standard block identification field in Fieldbus format(col.6, line 29).

Regarding claim 4, Sandelman teaches appending a message including device type (col.7, lines 9-11; col.11, lines 30-31).

Regarding claims 5-6, Sandelman teaches selection of appropriate alarm table from plural tables upon matching information (col.13, lines 33-63; col.14, lines 37-47).

Regarding claim 8, Sandelman teaches desirability of translating messages from original format (col.13, lines 37-38) to select tables, so use of a preferred language would have been obvious, since such would have been translated to a desired format.

Regarding claims 9-10, Sandelman teaches displaying alarm data (Fig. 1, elements 6,7).

Regarding claim 11, it is well-known in the prior art to utilize floating

point number fields in Fieldbus alarm messages (specification, page 15,

lines 17-22).

Regarding claim 29, choosing to have appending routine and

matching routine stored on different memories would have been obvious

to one of ordinary skill in the art, since Sandelman discloses two separate

routines for appending 710 and matching 709, separate memory sources

making retrieval simpler.

Regarding claim 37, choosing to use a specific value for the floating

point value would have been obvious, merely depending on user

preference.

3.   Claims 7,17 and 34 are rejected under the judicially created doctrine of

obviousness-type double patenting as being unpatentable over claims 1-62 of U.S.

Patent No. 6,774,786 in view of Sandelman et al., Brown et al. and Yamada.

Yamada teaches desirability of identifying corrective action information, in order

that problems with devices can be corrected (col. 4, lines 45-53; fig. 5).

It would have been obvious to use corrective action information as

suggested by Yamada in conjunction with a system as disclosed by Havekost,

Sandelman and Brown, in order to allow a user to know what type of action could

fix a problem.

4.   Any inquiry concerning this communication or earlier

communications from the examiner should be directed to Brent A

Swarthout whose telephone number is 571-272-2979. The examiner can

normally be reached on M-F from 6:30 to 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Jeff Hofsass, can be reached on 571-272-2981. The fax phone number for

the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

Brent A Swarthout
Art Unit 2636

BRENT A. SWARTHOUT
PRIMARY EXAMINER